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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,153	08/16/2001	Alain Forestiere	PET-1947	1451
23599	7590	09/20/2004	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			PASTERCZYK, JAMES W	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/930,153	Applicant(s) FORESTIERE ET AL.	
	Examiner J. Pasterczyk	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,10,11 and 16-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,11 and 16-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the amendment filed 8/6/04 and refers to the first Office action mailed 3/2/04.

2. The abstract of the disclosure is objected to because it refers to “mineral oxide” when there does not appear to be anything non-anthropogenic about the materials used as the supports, yet minerals are normally particular compounds with particular crystal structures found in nature. Also, in l. 3 “can” suggests the option, yet the present claims require that option exist. Correction is required. See MPEP § 608.01(b).

3. The drawings are objected to because figure 3 still has a comma used where standard English grammar would use a decimal point; all other problems with the figures identified in the previous Office action have been corrected. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. Claims 1, 2, 10, 11 and 16-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is still not completely clear just what the atomic connectivity is. The first three lines read as if the connectivity is M-O-P-R, while lines 5-6 seem to require M-O-R without clearly stating where the phosphorus atom is, i.e. to what "to the phosphorus atom" is bonded. It is also again suggested that the term "mineral" is improper here since a mineral is normally found naturally occurring and is not anthropogenic as would be the conventional supports disclosed in the specification. This latter issue also exists in claims 10, 11, 18 and 19.

In claim 2 it is still not clear what "distanced" is supposed to mean; is there a requirement that the two atoms or groups be connected to each other, however remotely, via some intermediate group, is there some order of connectivity implied, or is connectivity even required?

In claim 22 the proper Arabic numerals for the groups originally recited in Roman numerals would be 3-14; as currently written halogens, chalcogens and pnictogens may be M for groups 15-17.

Claims 29 and 30 are verbatim identical with each other; one should be cancelled or amended to depend from some other claim.

5. The examiner informally notes that in claims 11 and 25, divalent organic groups normally have the suffix "-ene". Also, in claims 20 and 21, "bonding" would be more accurately termed --connecting-- since the two entities at either end of the chain are not directly bonded to each other.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 2, 10, 11 and 16-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wieserman as cited in and for the reasons of record given in paragraph 9 of the previous Office action.

Although applicants have limited the ratio of M to phosphorus, use of the qualifier "about" makes the upper limit inexact, hence Wieserman is still considered to read on the present claims and the showing to negate this anticipation rejection is unavailing.

8. Claims 1, 2, 10, 11 and 16-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindoy as cited in and for the reasons of record given in paragraph 10 of the previous Office action.

In the structures of col. 2, l. 1-67, contrary to applicants' assertion there in fact is an oxygen atom connecting Z, which corresponds to the mineral oxide of the present claims, to the rest of the group, including organic portions and a portion containing a phosphorus atom, this latter portion not being part of a phase involving the corresponding M group.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Pasterczyk

AU 1755

9/15/04



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700